

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

DEC 12 2017
JULIA C. DUDLEY, CLERK
BY: *H. McDowell*
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UNITED STATES OF AMERICA

Case No. 4:08-cr-00037-1

v.

MEMORANDUM OPINION

RONALD EDWARD WOOTEN,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Ronald Edward Wooten, a federal inmate proceeding pro se, filed a motion to reduce sentence, citing United States v. Holloway, 68 F. Supp. 3d 310, 311 (E.D.N.Y. 2014), and 18 U.S.C. § 33582(c)(2). Because of Petitioner's citation to Holloway and the challenge to the validity of his criminal judgment, I find it appropriate to treat the motion to reduce sentence invoking Holloway as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.¹ See United States v. Winestock, 340 F.3d 200, 203 (4th Cir. 2003) (noting a court may classify a pro se pleading per its contents and regardless of its caption).

Court records indicate that the court already dismissed (ECF No. 67) a prior § 2255 motion (ECF No. 60). Thus, this construed § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See Whiteside v. United States, 775 F.3d 180, 183-84 (4th Cir. 2014) (en banc) (noting changes in case law do not constitute new facts); cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014) (discussing the relevance of new facts).

I may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained that certification, I dismiss the construed § 2255 motion without prejudice as successive. Based upon my finding that Petitioner has not made the requisite substantial

¹ I already addressed and denied the motion as arising from § 3582(c)(2) only. (ECF No. 70.)

showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 12th day of December, 2017.


Senior United States District Judge